

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LANGSTON M. EDWARDS
Deputy Attorney General
4 State Bar No. 237926
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-6343
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2013-941**

11 **THERESA GEORGEANN BOUGHER**
12 **513 Butternut Road**
13 **Republic, MO 65738**

A C C U S A T I O N

14 **Registered Nurse License No. 642428**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about August 5, 2004, the Board of Registered Nursing issued Registered
23 Nurse License Number 642428 to Theresa Georgeann Bougher (Respondent). The Registered
24 Nurse License expired on February 29, 2008, and has not been renewed. On or about March 21,
25 2005, Missouri State Board of Nursing (Missouri Board) issued Registered Nurse License
26 Number 2005007985 to Respondent. On or about December 6, 2011, Respondent voluntarily
27 surrendered Registered Nurse License No. 2005007985.
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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 of the Code provides, in pertinent part, that every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

8. Section 2761 of the Code provides in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United

1 States, by any other government agency, or by another California health care professional
2 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
3 action.

4 9. Section 2762 of the Code states:

5 "In addition to other acts constituting unprofessional conduct within the meaning of this
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
7 chapter to do any of the following:

8 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
9 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
10 administer to another, any controlled substance as defined in Division 10 (commencing with
11 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
12 defined in Section 4022.

13 (b) Use any controlled substance as defined in Division 10 (commencing with Section
14 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
15 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
16 himself or herself, any other person, or the public or to the extent that such use impairs his or her
17 ability to conduct with safety to the public the practice authorized by his or her license.

18 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
19 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
20 section."

21 22 **COST RECOVERY**

23 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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1 **DRUG DEFINITIONS**

2 11. Fentanyl, is a Schedule II controlled substance pursuant to Health and Safety
3 Code section 11055, subdivision (c)(8) and a dangerous drug per Business and Professions Code
4 section 4022. Fentanyl is for the management of persistent moderate to severe chronic pain.
5

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Disciplinary Action by Other State)**

8 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of
9 the Code in that disciplinary action was taken against Respondent's Registered Nurse License by
10 The Missouri State Board of Nursing (Missouri Board).

11 13. On or about 10/13/10, the Respondent executed a Settlement Agreement with the
12 Missouri Board *In Re: The License of Theresa Bougher*, Case No. 2007-006113, in which
13 Respondent's Registered Nurse License in Missouri was placed on probation for a period of five
14 years with terms and conditions. The circumstances underlying the disciplinary action by the
15 Missouri Board are, as follows:

16 a. On or about 12/3/07 while employed as a registered nurse at Cox Health in
17 Springfield, Missouri, Respondent dispensed 100 mcg of Fentanyl for a patient that was not
18 assigned to her.

19 b. The patient had already been admitted to an inpatient unit, and there was not an order
20 for the Fentanyl.

21 c. Upon being confronted about the discrepancy, Respondent pulled an empty syringe
22 from her pocket and admitted that she could not account for the missing Fentanyl.

23 d. Respondent submitted to a drug screen and tested positive for Fentanyl. Respondent
24 was discharged on or about 12/12/07 as a result of the positive drug screen.

25 e. On or about October 13, 2010, Respondent entered into a Stipulated Settlement with
26 The Missouri Board wherein, she agreed to a probation period of five (5) years with terms and
27 conditions.
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1 f. On or about 12/6/11, Respondent voluntarily surrendered Registered Nurse License
2 No. 2005007985.

3
4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Obtaining Controlled Substances)**

6 13. Respondent is subject to discipline under Code section 2762, subdivision (a) on the
7 grounds of unprofessional conduct relating to controlled substances or dangerous drugs and as
8 defined in the relevant Health and Safety and Business and Professions code. Complainant
9 incorporates by reference paragraphs 12 – 13 and all subparagraphs, as if fully set forth herein.
10

11
12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Dangerous Use of Controlled Substances)**

14 14. Respondent is subject to discipline under Code section 2762, subdivision (b) in that
15 Respondent used controlled substances or dangerous drugs, to an extent or in a manner dangerous
16 or injurious to herself, any other person, or the public. Complainant incorporates by reference
17 paragraphs 12 – 13 and all subparagraphs, as if fully set forth herein.
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20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Making Grossly Incorrect and Inconsistent Entries in Medical Records)**

22 15. Respondent is subject to discipline under Code section 2762, subdivision (e) on the
23 grounds of unprofessional conduct relating to controlled substances or dangerous drugs in that
24 Respondent made grossly incorrect and inconsistent entries into medical records and other patient
25 records. Complainant incorporates by reference paragraphs 12 – 13 and all subparagraphs, as if
26 fully set forth herein.
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2 **FIFTH CAUSE FOR DISCIPLINE**

3 **(Unprofessional Conduct)**

4 16. Respondent is subject to discipline under Code section 2761, subdivision (a) in that
5 Respondent committed acts constituting unprofessional conduct. Complainant incorporates by
6 reference paragraphs 12 – 13 and all subparagraphs, as if fully set forth herein.
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8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number 642428, issued to Theresa
12 Georgeann Bougher;
- 13 2. Ordering Theresa Georgeann Bougher to pay the Board of Registered Nursing the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.
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19
20 DATED: April 22, 2013

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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